GUIDANCE NOTE FOR
THE APPLICATION FOR LICENCES
FOR THE PROVISION OF
EXTERNAL TELECOMMUNICATION SERVICES

Introduction

Following the conclusion of the Framework Agreement between the Government of the Hong Kong Special Administrative Region (“HKSAR”) and Hong Kong Telecommunications Limited (“HKT”) on the early termination of the exclusive licence of Hong Kong Telecom International Limited (“HKTIL”), further liberalisation in the market for the provision of external telecommunication services to/from Hong Kong will be implemented with effect from 1 January 1999. From this date onward, competitive provision of external public telephone services will be permitted subject to licensing, although until the end of 1999, such services must be conveyed over external circuits supplied by HKT or other external telecommunication services operated over external circuits supplied by HKT.

2. Before finalizing the policies for the further liberalization of the market for external telecommunication services, the Information Technology and Broadcasting Bureau (“ITBB”) issued two consultation papers in April 1998 and September 1998 to seek the view of the industry.

3. After considering the views of the industry in response to these two consultative documents, the HKSAR Government decides not to limit the number of licensees for the provision of external telecommunication services. The Telecommunications Authority (“TA”) will issue the licences for external telecommunication services upon request to applicants who meet the licensing criteria specified by the TA. Interested parties may follow this Guidance Note in submitting their applications to the TA.

4. This Guidance Note gives the basic information and the procedures for the application for the licence for the operation of external telecommunication services to/from Hong Kong (“Licence”). The TA may amend this Guidance Note from time to time, after consultation with the industry, if he considers that there is a need to do so.

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Licensing Arrangements

5. The Licence will be based on a Public Non-Exclusive Telecommunications Service (“PNETS”) Licence provided for under the Telecommunication Regulations (“Regulations”). In accordance with the Regulations, the PNETS Licence will be valid for one year and, subject to the discretion of the TA, may be renewed on an annual basis.

6. The annual licence fee for the PNETS Licence is $750 per year and shall be payable on the grant or renewal of the licence. The licence fee component related to the use of radiocommunication apparatus under a PNETS Licence is not applicable to the Licence as the TA does not envisage that there is a need for the operation of such radiocommunication apparatus for the services to be licensed.

Scope of the Service

7. Under the Licence, the service to be licensed (“Service”) is an external public telecommunications service (which may be voice, facsimile, data or any combination of them) operated over external leased circuits supplied by a fixed telecommunication network services (“FTNS”) licensee at the Hong Kong end or over other external switched telecommunications services lawfully operated in Hong Kong at the Hong Kong end.

8. Until the end of 1999, the only FTNS operator licensed to supply external leased circuits is HKT. From 1 January 2000, operators licensed to provide the Service may use the external leased circuits supplied at the Hong Kong end by any external facilities operator licensed in Hong Kong.

9. The Service may also be operated over other external switched telecommunications services lawfully operated in Hong Kong at the Hong Kong end. The technology to be used for the external telecommunication services is not restricted. The Service may be operated through International Simple Resale (“ISR”) of external leased circuits, Internet services, callback services, other ISR services, other public switched data communication services, or the gateways of FTNS operators for external public telephone services, provided that these services used to convey the Service are operated in compliance with their licence conditions when carrying traffic of the Service.

10. Under the Licence, “external” means communications with places outside Hong Kong. For the avoidance of doubt, the Service shall not include any of the following:-

(a) except with the prior approval of the TA in writing, a telecommunications service routed in transit via Hong Kong; and
(b) the provision to customers a telecommunications circuit between a point in Hong Kong (including, without limitation, a radio communications facility or cable termination facility) and one or more points outside Hong Kong, and any means of telecommunications capable of facilitating such a circuit.

Restriction (a) above means that the operator must seek the approval of the TA in writing prior to carrying out refile activities within the territory of Hong Kong. Restriction (b) above means that the operator may not supply unswitched external leased circuits to customers as part of the Service. A review on the continuation of restriction (b) beyond the end of 1999 will be conducted in 1999. Nothing under the Licence authorises the operator to establish and maintain physical facilities (e.g. earth stations, cables to and from Hong Kong) for the supply of external circuits to customers in and after 1999.

11. Customers at the Hong Kong end and/or at the distant end may be connected to the facilities for the operation of the Service through any public switched telecommunications network or dedicated circuit. The operation of such public switched telecommunications networks or dedicated circuits must be in compliance with the relevant licences. For example, a public switched telecommunications network operated under a Public Radiocommunication Service Licence may not be used for the connection of fixed line customers to the facilities for the Service.

Licensing Conditions

12. The Licence will comprise two sets of conditions i.e. the General Conditions and the Special Conditions. The licensees are required to comply with both the General Conditions and the Special Conditions of the Licence.

13. The General Conditions and the Special Conditions are set out in the sample PNETS Licence in the Annex. These licence conditions will apply to all PNETS licensees for external telecommunications services. In particular, applicants for the Licence may wish to take note of the following licence conditions:-

(a) The licensee shall not engage in any conduct which, in the opinion of the TA, has the purpose or effect of preventing or substantially restricting competition in the operation of the service or in any market for the provision or acquisition of telecommunications installation, service or apparatus. In particular, the licensee shall not give an undue preference to, or receive an unfair advantage from, a business carried on by it or an associated or affiliated company, service or person if, in the opinion of the TA, a competitor could be placed at a significant competitive disadvantage or competition would be prevented or substantially restricted.

(b) The licensee shall not enter into any agreement or arrangement with a supplier of international public switched services in another territory or
country the effect of which is to effectively and substantially distort competition in the supply of external services between that territory or country, or another territory or country, and the HKSAR. This condition is intended to be a safeguard against the competition distortion that is commonly known as “one-way bypass of the accounting rate system”.

(c) The licensed services must be operated over external leased circuits supplied by a FTNS licensee at the Hong Kong end or over other external switched telecommunications lawfully operated in Hong Kong at the Hong Kong end. Connections between the facilities of the licensee in Hong Kong shall be made through dedicated circuits or switched circuits provided by a FTNS licensee or Public Radiocommunication Service (“PRS”) licensee.

(d) The licensee shall maintain an up-to-date record of the configuration of the system used for the provision of the licensed services. A copy of the record shall be filed with the TA and the licensee shall not permit any deviation of its system from the record unless prior approval from the TA has been obtained.

(e) The licensee shall not operate the service between Hong Kong and any place unless the law and policies at that place permits or does not prohibit the operation of such service.

(f) The licensee shall not carry out any refiling of traffic in Hong Kong unless the prior approval of the TA in writing is obtained. “Refiling” means the re-routing as outgoing traffic of any incoming traffic not destined for Hong Kong.

(g) Where directed by the TA, the licensee shall implement such accounting practices as may be specified by the TA. Such accounting practices are to be consistent with generally accepted accounting practices, where applicable, and may include (but are not limited to) accounting practices which allow for the identification of the costs and charges for different services or types or kinds of services offered by the licensee.

(h) The licensee shall supply to the TA, at such intervals and on/before such deadlines as may be specified by him from time to time, statistics of the volume of incoming and outgoing traffic handled by the licensee under the Licence, with such breakdown on a route-by-route basis or other classification methods as may be specified by the TA.

(i) For services provided under the Licence, the licensee will be required to pay to FTNS licensees or PRS licensees (where applicable) such interconnection charges and local access charges for the delivery of outgoing and incoming external telecommunications traffic as may be determined by the TA from time to time under section 36A of the Telecommunication Ordinance (Cap.
106) at the level and to the FTNS licensees or PRS licensees (where applicable) as specified by the TA in the determination.

(j) The licensee shall contribute towards the cost of the provision of universal service in Hong Kong, which is the subject matter of the Policy Statement entitled "Universal Service Arrangements: The Regulatory Framework" issued by the TA on 14 January 1998. Currently the Universal Service Contribution (‘USC’) is determined by the TA to be 13.4 cents per minute of incoming or outgoing external telecommunications traffic and Hong Kong Telephone Co. Ltd. is the only entity who has been charged with the Universal Service Obligation. The licensee should note that the TA has a plan to review the level of the USC and the Universal Service Arrangements itself in early 1999.

(k) The licensee shall conform to the numbering plan made or approved by the TA and the directions given by the TA in respect of the numbering plan. Any number translation device supplied by the licensee for the access to the external telecommunication services shall conform to the TA’s numbering plan.

(l) The licensee shall comply with any code of practice concerning technical configuration and operation of the service that may be issued by the TA from time to time after consultation with the licensees for external telecommunication services, FTNS licensees and PRS licensees for the purpose of implementing the terms under the TA’s determination for interconnection charges and/or local access charges and for the prevention of non-compliance with the TA’s determination.

(m) The licensee shall be required to commence providing service within 12 months after the licence becomes effective. The TA may not renew the licence if the licensee does not commence providing service within 12 months after the date of issue of the licence.

14. As provided in section 34(3) of the Telecommunication Ordinance (Cap. 106), the TA may specify on the grant or the annual renewal of the Licence other special conditions for the purpose of carrying out the objects of the Ordinance. The TA will consult the industry before specifying new licence conditions or varying existing licence conditions.
Arrangement with Existing Licensees

FTNS Licensees

15. The FTNS licences have already been revised to enable the FTNS licensees to provide external telecommunication service with effect from 1 January 1999 in the case of FTNS licensees other than HKT. Therefore, it is not necessary for the FTNS licensees to obtain a separate PNETS licence for the provision of external telecommunication services and the TA will not issue the Licence to the FTNS licensees. In addition, any PNETS licences held by the FTNS licensees for the provision of international simple resale for facsimile and data or virtual private network services will not be renewed upon their expiry.

Public Radiocommunication Service Licensees

16. PRS licensees who wish to provide external telecommunication services will have to obtain a separate PNETS licence. Under the Licence, the PRS licensee will be permitted to operate external telecommunication services on the same basis as other licensees. However, as the facilities licensed under the PRS licence are not permitted to provide communications between fixed points, the PRS licensees shall not allow fixed customers (i.e. customers connected by fixed lines to the public switched telecommunications network) to gain access to the external telecommunication services via the service platforms of their mobile networks unless the system for PRS and the external telecommunication services have been partitioned to the TA’s satisfaction and the TA has been notified of the technical configuration in accordance with Special Condition 16.

Licensees for International Value Added Network Services (IVANS)

17. Value-added facsimile and data communication services have traditionally been licensed as international value-added network services (“IVANS”). The scope of the IVANS licence does not cover the provision of real-time telephonic nor real-time facsimile services. Therefore, licensees authorized for the provision of IVANS have to apply for the Licence if they wish to provide external telecommunication services for real-time voice and facsimile transmission.

Licensees for PIN Validation and Call Routing Services

18. Calling card services, including those based on the callback techniques, have been licensed as PIN Validation and Call Routing Service and the licensees are currently permitted to provide customers with “connection to a licensed external public telecommunications service” only. If the licensees for calling card services wish to operate external telecommunication services over external leased circuits, they have to apply for the Licence. As the Licence already covers the activities of the calling card services, the licensees for calling card services will be required to return the licences for the calling card services to the TA for cancellation upon the grant of the Licence or 1
January 1999, whichever is later.

Licensees for Internet Access Services

19. If an Internet service provider (“ISP”) wishes to provide an external gateway for customers using ordinary customer premises equipment designed for operation over the public switched telephone network (“PSTN”) to gain access to the external telecommunication services, they have to obtain the Licence and be regulated on an equal basis as the other licensees for external telecommunication services. However, if the ISP is merely offering a licensed Internet access service which is a data communication service based on the Internet protocol, and provided that the service operates within the permitted IVANS scope and the ISP is not in a position to screen the real-time voice and facsimile messages from the data messages to/from the customers, the ISP may not be considered as providing external telecommunication services which are required to be licensed under the Licence.

Licensees for ISR Facsimile and Data Services

20. Existing PNETS licensees for the provision of ISR for data and facsimile service may apply for the Licence if they wish to extend their services to cover real-time two-way speech communications service. However, as the Licence already covers the activities of the ISR for data and facsimile service, the licensees for ISR for data and facsimile service will be required to return their licences to the TA for cancellation upon the grant of the Licence or 1 January 1999, whichever is later.

Licensees for Virtual Private Network Services

21. Existing PNETS licensees for Virtual Private Network (“VPN”) Services may apply for the Licence if they wish to extend their services to public communications. However, as the Licence already covers the activities of the VPN services, the licensees for VPN services will be required to return their VPN licences to the TA for cancellation upon the grant of the Licence or 1 January 1999, whichever is later.

Local Access Charge, Interconnection Charge and Delivery Fees

22. Applicants for licences to operate external telecommunication services should note that the TA is currently conducting an industry consultation exercise on the reform of the delivery fee arrangement and the establishment of a local access charge for the delivery of the traffic of the external telecommunication services over the local networks. The proposal of the TA is set out in the consultation paper issued by the TA on 30 September 1998 entitled “Review of Delivery Fee Arrangements - Further Considered Views of the Telecommunications Authority for Industry Consultation”. The final decision is expected to be made by the TA in November 1998 after taking into account the comments received on the proposal in the consultation paper. The future
licensees for the external telecommunication services will be required to comply with the terms of any determination of the TA under section 36A of the Telecommunication Ordinance on detailed arrangements, including the level, of such charges. The licensees are also required to follow any code of practice issued by the TA after consultation with the industry on the technical configuration and operational arrangements for the purpose of implementing the terms of the TA’s determination and the prevention of abuse or malpractices.

23. The facilities for the operation of the external telecommunication services are not entitled to direct interconnection with the external gateway of HKT for external public telephone services.

Access Codes, International Signalling Point Codes and Signalling Point Codes

24. The future licensees for external telecommunication services may apply for access codes under the Hong Kong Telecommunications Numbering Plan, International Signalling Point Codes (“ISPC”) and Signalling Point Codes (“SPC”) for the operation of the licensed services. The detailed procedure and criteria for the application have been developed after consultation with the Telecommunications Numbering Advisory Committee (“TNAC”) of OFTA. For details, please refer to the TNAC paper No. 15/1998 entitled “Assignment of Access Codes for External Telecommunication Services” and the “Code of Practice Relating to the Use of Numbers and Codes in the Hong Kong Numbering Plan (Cap. 269)” which may be downloaded from OFTA’s website http://www.ofta.gov.hk.

Application Procedures

25. The qualifications for applicants and criteria for approval are the same as those for standard PNETS licences. These are set out in Section 4 of the “Guidelines for the Application for Telecommunication Licences to Operate Public Telecommunication Services in Hong Kong” issued by the Telecommunications Authority in October 1998 (Issue 12). Interested parties are invited to read this Guidance Note in conjunction with the above-mentioned Guidelines. It should be noted that there is no foreign ownership restriction applicable to licensees for the operation of external telecommunication services, but it must be a company registered under the Companies Ordinance (Cap. 32) in Hong Kong.

26. To assist the provision of the required information for the processing of the application, interested parties for the provision of external telecommunication services to/from Hong Kong are required to complete the application form [referenced OFTA A816(98)] and provide the required supporting documents and information to the Office of the Telecommunications Authority (“OFTA”) at the following address:
27. On receipt of the completed application form and the required supporting documents, the OFTA will complete processing the application and respond to the applicant within 14 working days.

**Enquiries**

28. Enquiries concerning the application procedure should be addressed to the contact person at the telephone number given in the preceding paragraph.

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Office of the Telecommunications Authority
12 December 1998
TELECOMMUNICATION ORDINANCE  
(Chapter 106)  
PUBLIC NON-EXCLUSIVE TELECOMMUNICATIONS  
SERVICE LICENCE  
EXTERNAL TELECOMMUNICATION SERVICES  

DATE OF ISSUE :  
RENEWABLE :  
FEE ON ISSUE : $750.00  
FEE ON RENEWAL : $750.00  
(or such other fee as may be prescribed)  

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(hereinafter called "the licensee") is hereby licensed, subject to the conditions hereinafter contained-  

(a) to provide a public service (hereinafter called "the service") more particularly described in the First Schedule hereto; and  

(b) to possess, establish, use and maintain such radiocommunication apparatus as described in the Second Schedule hereto as may be necessary to provide for service; and  

(c) to deal in and demonstrate with a view to sale in the course of trade or business, such apparatus or material for radiocommunication as may be necessary to supply customers of the service.  

2. This licence shall not be construed as granting any exclusive rights to the licensee in the operation of the service.  

3. This licence replaces any licence, however described, which the Telecommunications Authority may have granted to the licensee in respect of the service.  

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NOTES

1. It is an offence for the licensee or his customers to operate licensed apparatus in such a manner as to cause direct or indirect interference with any other telecommunication service lawfully carried on, or other apparatus for telecommunication lawfully operated in or outside Hong Kong.

2. Under section 34(4) of the Telecommunication Ordinance (Chapter 106) any licence may at any time be cancelled or withdrawn by the Telecommunications Authority or suspended for such period, not exceeding 12 months as the Authority specifies in the event of any contravention by the licensee of the Ordinance (which includes the regulations thereunder) or of any condition to which the licence is subject.

3. It is an offence upon the expiry or cancellation of this licence not to surrender it to the Telecommunications Authority within 4 weeks of such expiry or cancellation.
GENERAL CONDITIONS

This licence is issued subject to the following conditions -

1. The licensee shall at all times and from time to time during the continuation of this licence operate, maintain and provide the service in a manner satisfactory to the Telecommunications Authority.

2. The licensee shall at all times perform and observe the requirements and except insofar as the Telecommunications Authority may in writing expressly absolve the licensee from such compliance all provisions of the International Telecommunications Convention and all regulations and recommendations annexed thereto or made thereunder as are applicable in Hong Kong.

3. (1) Notwithstanding regulation 8(1) of the Telecommunication Regulations (Cap. 106 sub. leg.) the licensee may with the prior consent in writing of the Telecommunications Authority transfer this licence and any permission or any right or benefit arising therefrom.

(2) Any such consent shall be subject to such conditions as the Telecommunications Authority may impose.

(3) Should any such transfer be made with such consent as aforesaid the licensee shall cause a true copy of the instrument effecting the same to be transmitted to the Telecommunications Authority within 2 months of the date thereof.

4. If the licensee possesses, uses, establishes or maintains apparatus for radiocommunications the following additional conditions shall apply--

(a) each fixed or base station shall be used only at the address and with emissions at the frequencies and of the classes and characteristics specified in the Second Schedule hereto, and with such power and aerial characteristics as are specified in the Second Schedule in relation to the class and characteristics of the emission in use;

(b) the apparatus comprised in each fixed or base station shall at all times comply with the technical and performance standards as may be prescribed by the Telecommunications Authority and specified in the Second Schedule;

(c) the apparatus comprised in each fixed, base or mobile station (being a mobile station used by the customer of the licensee) shall be of a type approved by the Telecommunications Authority and shall be so designed, constructed,
maintained and operated that its use does not cause any avoidable interference with any radiocommunications;

(d) each fixed or base station shall be operated only by the licensee or a person authorized by the licensee in that behalf. The licensee shall not permit or suffer any person not so authorized to have access to the apparatus comprised in each fixed or base station. The licensee shall ensure that persons operating each fixed or base station observe the conditions of the licence at all times;

(e) the licensee -

(i) shall not make any change -

(A) in any fixed or base station; or

(B) in the address at which each fixed or base station is installed, without the prior approval in writing of the Telecommunications Authority;

(ii) shall return this licence to the Telecommunications Authority for amendment when a change referred to in sub-subparagraph (i) has been effected;

(f) if power for the working of any fixed or base station is taken from a public electricity supply, no direct connection shall be made between the supply mains and the aerial;

(g) if any fixed or base station aerial crosses above or may fall or be blown onto any overhead power wire (including electric lighting and tramway wires) or power apparatus it shall be guarded to the reasonable satisfaction of the owner of the power wire or power apparatus concerned;

(h) the licensee shall take all reasonable measures to ensure that customers of the service do not cause interference to other users of radiocommunications and shall take all the necessary measures to stop such interference as may occur;

(i) the licensee shall cease to offer service to a customer thereof if instructed to do so by the Telecommunications Authority;

(j) the licensee shall, if so required, provide the Telecommunications Authority with a list of the names, addresses and other details requested by the Telecommunications Authority of the customers of the service annually on a date specified by the Telecommunications Authority by notice to the licensee;

(k) when any person ceases to be a customer of the licensee the licensee shall notify him, in such manner as the Telecommunications Authority may require, that he is no longer exempt from the licensing requirements of the Ordinance in relation to the apparatus used by him as a customer.
5. The apparatus operated by the licensee shall be operated only on such radio frequencies as the Telecommunications Authority may assign to the licensee and the Telecommunications Authority may refuse to assign further frequencies or require the licensee, by notice to him, to cease to operate the apparatus on any frequency previously assigned to him if in the opinion of the Telecommunications Authority the licensee is not making efficient use of that frequency.

6. The Telecommunications Authority may, by giving not less than 12 months' notice in writing to the licensee, require him upon such date as may be specified in the notice to cease using any frequency previously assigned to him by the Telecommunications Authority and to use such new frequency as the Telecommunications Authority may designate.

7. The licensee shall not enter into any agreement or arrangement whether legally enforceable or not which shall in any way prevent or restrict competition in relation to the operation of the service or any other telecommunication service licensed by the Telecommunications Authority.
SPECIAL CONDITIONS

1. The licensee shall comply with the Telecommunication Ordinance (Cap. 106) (“the Ordinance”), Regulations made under the Ordinance, conditions and special conditions of this licence, or any other instruments which may be issued by the Telecommunications Authority under the Ordinance.

2. The grant of this licence does not authorize the licensee to do anything which infringes any exclusive right to provide telecommunication circuits or services granted under the Ordinance or any other ordinance.

3. In connecting the service to a public telecommunication network operated under a licence granted under the Ordinance, the licensee shall comply with any technical specification prescribed by the Telecommunications Authority for the purposes of ensuring technical compatibility, avoiding technical harm to network or preventing safety hazards to personnel in the connection of telecommunication apparatus to that network.

4. (1) On receiving reasonable prior written notice from the Telecommunications Authority, the licensee shall allow the Telecommunications Authority and any person authorized in writing by him for the Telecommunications Authority's own purposes to enter and inspect the offices, places and premises in Hong Kong where the licensee has installed telecommunication equipment, or used for the provision of the service, to verify that the licensee is in compliance with the general conditions and special conditions of this licence and the Ordinance.

(2) The licensee shall provide and maintain, at no less than the reasonable technical standards set by the Telecommunications Authority, facilities to enable the Telecommunications Authority to inspect, test, read or measure, as the case may be, any telecommunication installations, equipment (including, but not limited to testing instruments) or premises used or to be used for the provision of the service, and may at its option, and shall on the written request of the Telecommunications Authority, and subject to the provision by the Telecommunications Authority of reasonable prior written notice, provide a representative to be present at any such inspection, testing, reading or measurement.

(3) On giving reasonable prior written notice, the Telecommunications Authority may direct the licensee to demonstrate that the service complies with the technical requirements imposed by the Ordinance and Regulations or any other instruments which may be issued by the Telecommunications Authority under the Ordinance and the licensee shall comply with such directions.
(4) For the purpose of paragraphs (2) and (3), the licensee shall provide adequate testing instruments and operating staff.

5. (1) The licensee shall furnish to the Telecommunications Authority, in such manner and at such times as the Telecommunications Authority may request in writing, such information related to the business, including financial information, accounts, traffic information, technical configuration, circuit routing and other records or information as the Telecommunications Authority may reasonably require in order to perform his functions under the Ordinance and this licence and to ensure the licensee’s compliance with the conditions and special conditions of this licence and the Ordinance.

(2) Where the Telecommunications Authority proposes to disclose information obtained and the Telecommunications Authority considers that the disclosure would result in the release of information concerning the business or commercial or financial affairs of the licensee which disclosure would or could reasonably be expected to adversely affect the licensee's lawful business or commercial or financial affairs, the Telecommunications Authority will give the licensee a reasonable opportunity to make representations on the proposed disclosure before the Telecommunications Authority makes a final decision whether to disclose the information.

(3) Without limiting the generality of paragraph (1), the licensee shall supply to the Telecommunications Authority, at such intervals and on/before such deadlines as may be specified by him from time to time, statistics of the volume of incoming and outgoing traffic handled by the licensee under the licence, with such breakdown on a route-by-route basis or other classification methods as may be specified by the Telecommunications Authority.

6. The licensee shall permit the Telecommunications Authority or any person authorized by him in writing for the Telecommunications Authority's own purpose to inspect and if required to make copies of records, documents and accounts relating to the licensee's business for the purpose of enabling the Telecommunications Authority to perform his functions under the Ordinance and this licence and to ensure the licensee’s compliance with the conditions and special conditions of this licence and the Ordinance.

7. Except with the consent in writing of the Telecommunications Authority, the licensee shall adopt non-proprietary technical standards or standards prescribed by the Telecommunications Authority for all telecommunication functions for:

(a) customer access to the service: and

(b) interconnection between the service and other telecommunication networks and services.
In this connection, a “non-proprietary technical standard” means:

(a) the standard is fully published;
(b) equipment meeting the standard is available from alternative suppliers on a competitive basis; and
(c) permission to use any intellectual property rights associated with the standard may be readily obtained at a reasonable cost.

8. (1) The licensee shall not disclose information of a customer except with the consent of the customer, which form of consent shall be approved by the Telecommunications Authority, except for the prevention or detection of crime or the apprehension or prosecution of offenders or except as may be authorized by or under any law.

(2) The licensee shall not use information provided by its customers or obtained in the course of provision of service to its customers other than for and in relation to the provision by the licensee of the service under this licence.

9. (1) The licensee shall take all reasonable steps to ensure that any metering equipment used in connection with the service operated under this licence is accurate and reliable. The licensee shall, in relation to the metering system used for the provision of the service, keep such records and make them available for inspection by the Telecommunications Authority.

(2) Upon written request of the Telecommunications Authority, the licensee shall conduct tests on metering equipment to assess its accuracy, reliability and conformity to the technical standards, if any, specified by the Telecommunications Authority. The licensee shall submit the test result to the Telecommunications Authority within 14 days after the date of the test or such other longer period as the Telecommunications Authority may determine.

10. (1) For services offered generally to the public in Hong Kong, the licensee shall publish and charge no more than the tariffs for the service operated under this licence. The tariffs shall include the relevant terms and conditions for the provision of the service.

(2) Publication shall be effected by -

(a) placing a copy in a publicly accessible part of the principal business place and other business premises of the licensee;
(b) sending a copy to the Telecommunications Authority on or before the date on which a new tariff is introduced; and
(c) sending a copy to any person who may request it. The licensee shall not levy a charge greater than that is necessary to cover reasonable cost involved.

(3) Where the licensee provides customer equipment integral to the provision of the service to its customers, the tariffs shall clearly state the price of the customer equipment separately from the charges for the service.

11. The licensee shall not use the service, and shall endeavour to prevent the service from being used by any user, for the transmission of unsolicited advertising information or unsolicited promotional information.

12. (1) (a) A licensee shall not engage in any conduct which, in the opinion of the Telecommunications Authority, has the purpose or effect of preventing or substantially restricting competition in the operation of the service or in any market for the provision or acquisition of telecommunication installation, service or apparatus.

(b) Conduct which the Telecommunications Authority may consider has the relevant purpose or effect referred to in sub-paragraph (a) includes, but is not limited to -

(i) collusive agreement to fix the price for any apparatus or service;
(ii) boycotting the supply of goods or services to competitors;
(iii) entering into exclusive arrangements which prevent competitors from having access to supplies or outlets;
(iv) agreements between licensees to share the available market between them along agreed geographic or customer lines;
(v) predatory pricing.

(2) In particular, but without limiting the generality of the conduct referred to in paragraph (1), a licensee shall not -

(a) enter into any agreement, arrangement or understanding, whether legally enforceable or not, which has or is likely to have the purpose or effect of preventing or substantially restricting competition in any market for the provision or acquisition of any telecommunication installations, services or apparatus;

(b) without the authorization of the Telecommunications Authority, make it a condition of the provision or connection of telecommunication installations, services or apparatus that the person acquiring such telecommunication installations, services or apparatus also acquire or not acquire any other service or apparatus either from itself or of any kind from another person; or
(c) give an undue preference to, or receive an unfair advantage from, a business carried on by it or an associated or affiliated company, service or person if, in the opinion of the Telecommunications Authority, competitors could be placed at a significant competitive disadvantage or competition would be prevented or substantially restricted within the meaning of paragraph (1).

13. The licensee shall conform to any numbering plan made or approved by the Telecommunications Authority and any code or practice or directions given by the Telecommunications Authority in respect of the numbering plan.

14. (1) The licensee shall comply with any directions given in writing by the Telecommunications Authority in relation to the use of a telecommunications number translation device for access to the service.

(2) The licensee shall bear all the costs and financial losses incurred due to full compliance with the directions mentioned in paragraph (1).

(3) In this condition, “telecommunications number translation device” shall mean a device which translates a number input via the normal dialing pad into another number for access to specified destinations or services, but does not include a device which generates such a number upon input through a special function key or a combination of special function keys and the normal dialing pad. The “normal dialing pad” means the dialing pad comprising the buttons for digits 0 to 9, and for “*” and “#”.

15. (1) The service must be operated over external leased circuits supplied by an Fixed Telecommunication Network Services (“FTNS”) Licensee at the Hong Kong end or over other external switched telecommunication services lawfully operated in Hong Kong at the Hong Kong end.

(2) Connections between the facilities of the licensee in Hong Kong for the service and the users in Hong Kong shall be made through dedicated circuits or switched circuits provided by an FTNS Licensee or Public Radiocommunication Service (“PRS”) Licensee.

16. (1) The licensee shall maintain an up-to-date record of the configuration of the system used for the provision of telecommunication services. This record shall include the following details and shall be supplemented by schematic diagrams where the Telecommunications Authority considers appropriate:

(a) the description, nature, specification and configuration of building blocks, including embedded software and information programmed into the switch or remote computer equipment and switches in or connected with the system, the interconnection between the building blocks and all
incoming and outgoing telecommunication circuits connected to the system;

(b) for switched circuits mentioned in sub-paragraph (a) above, information identifying the circuits such as telephone number and circuit identification number of the provider of the circuit and the licensee and the type, quantity and the special features and functions available on or in connection with these circuits, for example call forwarding;

(c) for non-switched circuits or dedicated circuits mentioned in paragraph (a) above, circuit identification information, type, quantity and terminating locations;

(d) information on the routing of messages between the system and an external gateway means of telecommunication (including, without limitation, an external gateway switching facility) duly licensed under the Ordinance. The information shall include details on any intermediate nodes, switches or service providers involved in the routing of calls and routing information programmed into the switch or any remote computer equipment.

(2) A copy of the record certified to be correct and up to date at the time of submission by a director of the licensee shall be submitted to the Telecommunications Authority at such intervals as may be specified by the Telecommunications Authority. Unless prior approval of the Telecommunications Authority has been obtained, the licensee shall not permit any deviation of its system from the record which has been submitted to the Telecommunications Authority and for which an acknowledgment of receipt has been issued by the Telecommunications Authority.

(3) If the Telecommunications Authority notifies the licensee that the record submitted is not satisfactory to him and specifies the nature of amendments to be made, the licensee shall make such amendments according to the schedule as specified by the Telecommunications Authority and submit an amended record to the Telecommunications Authority within 30 days of the date of such notice.

17. The licensee shall not operate the service between Hong Kong and any place unless the law and policies at that place permits or does not prohibit the operation of such service.

18. (1) The licensee shall not enter into any agreement or arrangement with a service supplier of international public switched services in a place outside Hong Kong the effect of which is to effectively and substantially distort competition in the supply of external services between that place, or another place, and Hong Kong.

(2) For the avoidance of doubt, “agreement or arrangement” in paragraph (1) above includes an agreement, arrangement, understanding or the like in relation to payments between service suppliers whether by way of the international
accounting methods or accounting rates, revenue divisions or terminating charges, or any other like charges.

(3) Where, following consultation with the licensee, the Telecommunications Authority reasonably concludes that an agreement or arrangement substantially distorts competition in contravention of paragraph (1), the Telecommunications Authority may give directions to the licensee for the purpose of ensuring compliance with paragraph (1) and the licensee shall comply with such directions given.

19. The licensee shall not carry out any refiling of traffic in Hong Kong unless the prior approval of the Telecommunications Authority in writing is obtained. For this purpose “refiling” means the re-routing as outgoing traffic of any incoming traffic not destined for Hong Kong.

20. The licensee shall at all times comply with the requirements of -

(a) the International Telecommunication Convention and the regulations and recommendations annexed to it;

(b) the provisions of the ITU-R and ITU-T Recommendations made by the International Telecommunication Union that are applicable to Hong Kong; and

(c) any other international convention, agreement, protocol, understanding or similar document of which the Telecommunications Authority gives notice to the licensee,

except to the extent that the Telecommunications Authority may in writing exempt the licensee from such compliance.

21. Where directed by the Telecommunications Authority in writing, the licensee shall implement such accounting practices as specified by the Telecommunications Authority. Such accounting practices are to be consistent with generally accepted accounting practices, where applicable, and may include (but are not limited to) accounting practices which allow for the identification of the costs and charges for different services or types or kinds of services offered by the licensee.

22. (1) For the delivery of outgoing and incoming external telecommunications traffic between the facilities of the licensee and the users of the service in Hong Kong, the licensee shall pay such interconnection charges and local access charges as may be determined by the Telecommunications Authority from time to time under section 36A of the Telecommunication Ordinance (Cap. 106) at the level and to the FTNS Licensees or PRS Licensees specified by the Telecommunications Authority in the determination.
(2) The licensee shall comply with any code of practice concerning technical configuration and operation of the service that may be issued by the Telecommunications Authority from time to time after consultation with the licensees for external telecommunication services, FTNS Licensees and PRS Licensees for the purpose of implementing the terms under the determination referred to in paragraph (1) for interconnection charges and local access charges and the prevention of non-compliance with the determination.

23. The licensee shall not engage in any activity the purpose or effect of which is to cause a breach by the licensee, or any other licensee under the Ordinance, of any determination made by the Telecommunications Authority under Section 36A or other provisions of the Ordinance.

24. (1) Where directed by the Telecommunications Authority, the licensee shall pay to the Hong Kong Telephone Company Limited, or other licensees, as the case may be, its relevant share of the Universal Service Contribution to assist the Hong Kong Telephone Company Limited, or those licensees, to meet their Universal Service Obligations, if any.

(2) Any Universal Service Contribution shall be subject to annual review by the Telecommunications Authority as to description and quantum and the licensee shall pay its relevant share of such Universal Service Contribution as the Telecommunications Authority may direct following a review. On the completion of an annual review, the Telecommunications Authority will supply the licensee such information as the Telecommunications Authority is reasonably able to supply, subject to any duty of confidence, as to the basis on which the Universal Service Contribution is calculated.

(3) For the purpose of this special condition, the following definitions shall apply -

(a) Basic Service means, subject to the Ordinance, the provision of

(i) a public switched telephone service including the service connection, continued provision of connectivity, provision of a dedicated telephone number, an appropriate directory listing (except where the customer otherwise directs), a standard telephone handset without switching capacity (except where the customer elects to provide the handset), standard billing and collection services and relevant ancillary services and facilities necessarily utilized by the licensee; and

(ii) a reasonable number of public payphones including payphones located within publicly or privately owned facilities to which the public have access, whether on a 24 hours basis or restricted to certain hours or days of the week; and

(iii) a reasonable number of public payphones, designed for ease of
effective use by the hearing impaired; and

(iv) a reasonable number of public payphones, designed for access by the physically disabled, including but not limited to those persons using wheelchairs; and

(v) operator provided directory enquiries, fault reporting, service difficulty and connection services; and

(vi) a tropical cyclone warning service; and

(vii) a thunderstorm and heavy rain warning service; and

(viii) a flood warning service; and

(ix) access to a number or numbers for emergency services; and

(x) such other services, subject to the Ordinance, as the Telecommunications Authority may include.

(b) Universal Service Contribution is that sum calculated in accordance with a formula adopted annually by the Telecommunications Authority, to ensure that the Hong Kong Telephone Company Limited, where it has a Universal Service Contribution, and any other licensee with such an obligation, as the case may be, receives a fair contribution from other fixed telecommunication network services licensees towards the costs, net of attributable revenue, of serving customers with Basic Service whom would otherwise not be served because it is not economically viable to do so but who are required to be served under the Universal Service Contribution.

(c) Universal Service Contribution is the obligation to provide, maintain and operate the relevant network in such manner as to ensure that a good, efficient and continuous Basic Service is reasonably available, subject to the Ordinance, to all persons in Hong Kong and to provide that Basic Service in that manner.

25. (1) The licensee shall commence providing the service within 12 months after the effective date of the licence. The Telecommunications Authority may not renew the licence if the licensee does not commence providing the service within 12 months after the date of issue of the licence.

(2) For the purpose of paragraph (1), the licensee commences providing the service when the tariffs for the service are published in accordance with Special Condition 10 and the facilities of the licensee are ready for the provision of the service to any person who is willing to pay for the service in accordance with the published tariffs.
26. The licensee, or the Telecommunications Authority, may at their discretion make the terms and conditions of this licence, including any special conditions, publicly available in any manner they think fit.

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FIRST SCHEDULE

Description of Service

1. The service is an external public telecommunications service operated over external leased circuits supplied by an FTNS Licensee authorised to supply such circuits at the Hong Kong end or over other external switched telecommunication services lawfully operated in Hong Kong at the Hong Kong end.

2. In the above description of service, "external" means communications with places outside Hong Kong.

3. For the avoidance of doubt, the service shall not include any of the following:

   (a) except with the prior approval of the Telecommunications Authority in writing given under Special Condition 19, a telecommunications service routed in transit via Hong Kong;

   (b) the provision to customers of a telecommunication circuit between a point in Hong Kong (including, without limitation, a radiocommunication facility or cable termination facility) and one or more points outside Hong Kong, and any means of telecommunication capable of facilitating such a circuit.

4. Customers at the Hong Kong end and/or at the distant end may be connected to the service through any public switched telecommunication network or dedicated circuits.

5. This licence does not authorise the licensee to start providing the service before 1 January 1999.

6. This licence does not authorise the licensee to establish and maintain any physical facilities for the supply of external circuits to customers.

*** End of the First Schedule ***
SECOND SCHEDULE

*** End of the Second Schedule ***

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For and on behalf of the
Telecommunications Authority